United Nations ST/AI/2000/19

Secretariat

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Administrative instruction

Visa status of non-United States staff members serving in the United States, members of their household and their household employees, and staff members seeking or holding permanent resident status in the United States

The Under-Secretary-General for Management, pursuant to paragraph 4.2 of Secretary-General's bulletin ST/SGB/1997/1, hereby promulgates the following rules regarding United States G-4 and G-5 visas:

Section 1
Eligibility for international organization G-4 visa status

1.1 The G-4 visa status is a non-immigrant status granted to officials of, or persons employed by, international organizations while stationed on official business in the United States, as well as to members of their immediate families. Staff members other than United States citizens and permanent residents whose duty station is in the United States and who are considered international recruits in accordance with the Staff Regulations and Rules (e.g., staff in the Professional category and above, Field Service staff and staff in the General Service category who were internationally recruited under staff rule 104.7) are required by the United States to obtain G-4 visa status on appointment and to relinquish any other visa status in the United States that they held previously. Locally recruited staff who are not United States citizens or permanent residents may also be eligible for G-4 visa status depending on the circumstances surrounding their presence in the United States.

1.2 A staff member's spouse and unmarried dependent children under the age of 21 and those entitled to education grant are automatically considered eligible for G-4 visa status.

1.3 Other relatives may be eligible for G-4 visa status upon demonstrating close ties and a continuing dependency and residential relationship with the staff member. Their purpose in seeking entry into the United States must be to reside with the staff member. Applications by staff members for G-4 visas in respect of family members other than spouses and children under 21 years of age shall be submitted for review to the Visa Committee, which may request additional information or clarification. After such review, the Assistant Secretary-General for Human Resources Management shall decide whether the request should be endorsed and submitted to

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the United States authorities. Staff members shall be informed promptly of the outcome of the review.

1.4 Staff members who at recruitment for Professional or higher posts are permanent residents in, but not citizens of, the United States must apply for a change to G-4 visa status unless they are exceptionally authorized to retain permanent resident status in accordance with section 5.7 below.

Section 2
Expiration of G-4 visa status

A staff member's authorized stay in the United States expires automatically upon separation from service (which, for the purposes of the present instruction, includes entry into special leave with or without pay) or transfer to a duty station outside the United States, even if the G-4 visa stamped in the passport indicates that it is valid beyond the separation or transfer date. In practice, the United States authorities allow staff members and their families 30 days after the date of separation or transfer in which to leave the country. If additional time is required, an application must be made in writing to the United States authorities for an additional 30-day period or for assistance in seeking a change of visa status from the Immigration and Naturalization Service.

Section 3
Cancellation of G-4 visa status

3.1 G-4 visas issued to United Nations staff and their family members are cancelled without prejudice when staff members are no longer eligible for the G-4 visa upon separation from service or transfer to a duty station outside the United States.

3.2 Staff members holding a G-4 visa who are due to separate from the Organization or to transfer to another duty station (other than for a limited-term assignment to a non-family mission or a posting that does not involve a change of duty station) must present their passport to the United States Mission, together with the passports of their family members holding derivative G-4 visas, for the cancellation of such visas without prejudice. This must be done as soon as the date of their separation or transfer is known, and in any case at least one week prior to such date. Alternatively, within the same time limits, passports can be submitted to the Travel and Transportation Service for appropriate processing. If such visas were processed by the United Nations Visa Committee, copies of cancelled documents shall be submitted to that Committee as well.

3.3 Staff members who are divorced from their spouse must submit a letter by certified mail, return receipt requested, to the spouse and her or his attorney advising the spouse of the obligation to surrender the G-4 visa and the G-4 visas of any children residing with the spouse within 30 days and attaching a copy of the present instruction. The staff member must send a copy of that letter to the United Nations Visa Committee no later than 30 days after the divorce is in effect. In addition, the staff member is required to inform the Visa Committee whether the family member(s) will be repatriated or seeking a change in visa status from the Immigration and Naturalization Service.

Section 4
Employment within the United States for family members with derivative G-4 visas

4.1 Spouses and dependent children of staff members with G-4 visa status who wish to work in the United States are required to secure permission from the United States Immigration and Naturalization Service through the United States Mission. Permission must be obtained before the employment commences and may be granted and renewed for periods of up to three years. Permission must be renewed upon each change of employment. Income and social security taxes must be paid on non-United Nations emoluments earned in the United States.

4.2 In general, employment is authorized within certain limitations for spouses and dependent children. Employment is not authorized for other relatives on derivative G-4 visas. Limitations generally do not apply to unmarried children who are full-time students working part-time during the academic year or full-time during the school holidays. Dependent children over 23 years old with G-4 visa status will not be given permission to work in the host country unless they are disabled and incapable of living independently.

Section 5
United States permanent resident status

5.1 Pursuant to staff rule 104.4 (c), staff members intending to acquire permanent resident status in any country other than that of their nationality or who intend to change their nationality must notify the Secretary-General of that intention before the change in resident status or in nationality becomes final. Such staff members should inform the Office of Human Resources Management in writing prior to making their application for permanent resident status or naturalization, as the case may be.

5.2 In accordance with United States law, a permanent resident of the United States who is a United Nations staff member may not continue to hold permanent resident status unless within a period of 10 days she or he signs a waiver of the rights, privileges, exemptions and immunities which would accrue to him or her as a staff member of the United Nations.

5.3 Before they become United States permanent residents, staff members shall be required by the United States Immigration and Naturalization Service to sign the waiver of rights, privileges, exemptions and immunities referred to in section 5.2 above. Such staff members must first request permission to sign the waiver. If such permission is granted and an alien registration card is issued to the staff member, she or he must take it to the Office of Human Resources Management to be recorded. Such staff members must also inform the office as soon as possible in writing of the date of the signature of the waiver.

5.4 The signing of the waiver by staff members who are already in permanent resident status or acquired it after entry on duty places them in a position of parity with staff members of United States nationality with respect to their United Nations status. While such staff members retain full functional immunities for actions taken in the course of official business, they are otherwise subject to United States laws, including those regarding taxation, payment of customs duties, etc. These staff members become liable for payment of United States taxes on emoluments earned

from the United Nations as of the date of the signing of the waiver. Such taxes are subject to reimbursement to staff who have been authorized to sign the waiver pursuant to staff regulation 3.3 (f) and the tax reimbursement administrative instruction.

5.5 Staff members who sign the waiver in order to acquire permanent resident status lose any entitlements they would otherwise have had to international benefits under the Staff Rules by virtue of serving at a duty station outside the country of their nationality (i.e., home leave, education grant, repatriation grant), but only from the date on which they are granted permanent resident status as shown on their alien registration card and not from the date on which they sign the waiver.

5.6 Subject to this section, staff members who have permanent resident status in the United States are required to renounce such status and to change to G-4 visa status upon appointment and staff members who seek to change to permanent resident status will not be granted permission to sign the waiver of rights, privileges, exemptions and immunities required by the United States Government for the acquisition or retention of permanent resident status.

5.7 The rule in section 5.6 above does not apply to the following:

(a) Stateless persons;

(b) Newly appointed staff members who have applied for citizenship by naturalization, when such citizenship will be granted imminently;

(c) General Service and related categories staff previously authorized to retain permanent resident status, on promotion to the Professional category;

(d) Staff members in the General Service and related categories;

(e) Staff members appointed to serve outside the United States either under the 200 series of the Staff Rules as technical assistance project personnel, or under an appointment of limited duration governed by the 300 series of the Staff Rules;

(f) Staff members appointed for less than one year; however if their appointments are extended beyond one year, that extension is subject to obtaining a G-4 visa.

The authority to grant the above exceptions is reserved to the Assistant Secretary-General for Human Resources Management. These exceptions apply to all staff members seeking to acquire permanent resident status in the United States, including those serving in offices away from Headquarters.

5.8 Locally recruited staff members in the General Service and related categories holding permanent resident status in the United States at the time of appointment and wishing to retain this status must produce their alien registration card to the Office of Human Resources Management on the day they report for duty.

5.9 Locally recruited staff members in the General Service and related categories seeking to acquire permanent resident status after appointment must advise the Office of Human Resources Management in writing prior to making their application.

Section 6
G-5 visas for household employees

6.1 G-5 visa status may be granted to household employees of staff members holding G-4 visas. Staff members employing household help under a G-5 visa are responsible for compliance with the laws and regulations applicable to employment contracts in the United States and in the state in which they reside.

6.2 The household employee must not be related to the staff member or his or her spouse or to another staff member, shall have previous experience in domestic service and must come from the same cultural background as the staff member or have several years of documented domestic service in the staff member's household. A G-5 visa cannot be used for any other purpose within the United States non-immigrant visa categories (e.g., study, business, tourism or other employment purposes).

6.3 Staff members whose application for a G-5 visa for a household employee has been approved by the United States authorities shall maintain the following records for the duration of actual employment and for three years thereafter:

(a) The employee's full name, date and place of birth, gender and occupation;

(b) The employee's home address and telephone number in the United States;

(c) A record of the number of hours worked daily and weekly;

(d) A copy of a cheque, money order or dated receipt covering each pay period, including a record of any deduction made;

(e) A record of all social security payments made for the employee;

(f) A record of all health insurance payments made for the employee.

Section 7
Application for G-5 visas

7.1 Staff members must submit to the United States authorities an application for a G-5 visa for a household employee, including a copy of the employment contract, which satisfies all the conditions defined for that purpose by the United States authorities. Those conditions shall be specified in information circulars issued to inform staff of the applicable requirements and of any subsequent changes. Applications for a G-5 visa must first be reviewed by the United Nations Visa Committee, which makes recommendations for endorsement of such applications to the Assistant Secretary-General for Human Resources Management. Staff members shall be informed promptly of the outcome of the review.

7.2 If the United States authorities grant a G-5 visa, the staff member shall immediately report the arrival of the household employee to the United Nations Visa Committee and to the Travel and Transportation Service, Office of Central Support Services, and submit at the same time a copy of the signed contract of employment.

7.3 In the event the household employee ceases to be employed by the staff member, but is to be employed by another staff member, both staff members must inform the United Nations Visa Committee in writing of such change of employer. The new employer of the household employee must submit an application for a G-5

visa for that household employee to the United States authorities, after review and recommendation by the United Nations Visa Committee. Once the application has been approved, the new employer will assume all responsibilities in relation to such employment, including the responsibility to repatriate the household employee at the conclusion of the employment indicated in section 8.3 below. Pending or failing such approval, the responsibility to repatriate the household employee rests with the original employer.

Section 8
Cancellation of G-5 visas

8.1 G-5 visas issued to household employees of staff members are cancelled without prejudice when the staff members are no longer eligible for the G-4 visa, upon separation from service, transfer to a duty station outside the United States or change of staff member's visa status.

8.2 In the event of a change of the staff member's G-4 visa status, or termination of the household employment, the staff member concerned shall submit the passport of the household employee holding the G-5 visa for cancellation of the G-5 visa and the I-94 form (permission to stay, arrival-departure record) to the United States Mission. Passports must be presented at least one week before the above change of status. Alternatively, within the same time limits, passports can be submitted to the Travel and Transportation Service for appropriate processing. Copies of cancelled documents shall be submitted to the United Nations Visa Committee.

8.3 Upon cancellation of the G-5 visa, the staff member must make arrangements for the repatriation of the household employee and provide to the United Nations Visa Committee proof of repatriation.

Section 9
I-94 form — permission to stay for G-5 visa holders

9.1 The I-94 form is stapled into the household employee's passport upon entry into the country and indicates the date up to which the household employee is authorized to stay in the country. If the household employee wishes to remain in the United States beyond the period authorized by the I-94 form, an application for extension of the I-94 form must be presented to the United States authorities. Such application must first be submitted to the United Nations Visa Committee six weeks before the date of expiration.

9.2 In the event the I-94 form in respect of the household employee is allowed to lapse, even if the G-5 visa continues to be valid, the household employee must depart the United States to apply for and obtain a new G-5 visa in her or his country of nationality.

9.3 The new G-5 visa need not be obtained in the household employee's country of nationality in the following cases:

(a) If a request for the new G-5 visa is filed on behalf of a household employee prior to the expiration of the period of authorized stay, but not approved by the United States Immigration and Naturalization Service until after the period of authorized stay has expired, the household employee ordinarily will not be required to apply in his or her country of nationality;

(b) If the G-5 visa applicant has a current residence in a country other than that of his or her nationality, he or she may apply for his or her visa in that country; and

(c) If the United States does not have a visa-issuing post in the country of nationality of the G-5 visa applicant, the latter may apply in certain countries designated by the United States Department of State.

9.4 Lapse of the G-5 visa while the G-5 holder still holds a valid I-94 form will not invalidate the status of the household employee. The G-5 visa need only be renewed if the household employee plans to leave the United States and subsequently re-enter.

9.5 In order to obtain the renewal of a G-5 visa, staff members must present to the United States authorities an application for renewal of G-5 visa, accompanied by the valid I-94 form, a copy of the current employment contract between the household employee and the staff member and, upon specific request, copies of the records listed in section 6.3 above.

Section 10
Social security and taxation obligations in respect of household employees

10.1 In the absence of a totalization/social security agreement (an agreement which aims to preclude the requirement to pay into two national social security systems simultaneously) between the United States and the country from which the household employee comes, the household employee is subject to United States laws on social security and must participate in the United States Social Security Programme.

10.2 Staff members shall withhold income, social security and state taxes from their household employees and must pay them, together with their own social security contribution, to the appropriate United States tax authorities.

10.3 Senior United Nations officials at the Assistant Secretary-General level and above who are accorded diplomatic status by the United States pursuant to section 19 of the 1946 Convention on the Privileges and Immunities of the United Nations shall, as a rule, participate in the United States Social Security Programme in respect of their household employee, unless the household employee is not a national of or a permanent resident in the United States and he or she is covered by the social security provisions in force in his or her home country or a third country.

10.4 The household employees of senior United Nations officials at the Assistant Secretary-General level and above who are exempt from participating in the United States Social Security Programme in accordance with section 10.3 above are ineligible to participate in the United States Social Security Programme on a voluntary basis.

10.5 Pursuant to article 37 of the Vienna Convention on Diplomatic Relations, the household employees of senior United Nations officials at the Assistant Secretary-General level and above are exempt from paying income and state taxes on the emoluments they receive by reason of their household employment in the United States. The senior officials employing them must inform the United States Social Security Administration or the United States Internal Revenue Service of this

exemption when making a contribution to the United States Social Security Programme in the name of the household employee.

Section 11
Final provisions

11.1 The present instruction shall enter into force on 1 January 2001.

11.2 Administrative instruction ST/AI/294 of 16 August 1982, entitled "Visa status of non-United States staff members serving in the United States", is hereby abolished.

(*Signed*) Joseph E. **Connor**
Under-Secretary-General for Management